



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: A8439

Rafael BRACHO, et al.

Appln. No.: 09/464,378

Group Art Unit: 2175

Confirmation No.: 7455

Examiner: David Yiuk JUNG

Filed: December 15, 1999

RECEIVED

JUN 24 2003

For: ENTERPRISE COMPUTER SYSTEM

Technology Center 2100

DECLARATION UNDER 37 C.F.R. § 3.73(b)

Commissioner for Patents
Washington, D.C. 20231

Sir:

WEBMETHODS, INC states that it is the assignee of the entire right, title, and interest in the above-identified application by virtue of an acquisition of Active Software, Inc., the present assignees of record.

Submitted herewith is additional verification as evidence of the acquisition of Active Software, Inc., by WEBMETHODS, INC. A portion of a Proxy Statement and a Form 8K filed with the Securities and Exchange Commission pursuant to Sections 14(a) and 23 of the Securities Exchange Act of 1934, respectively, is attached.

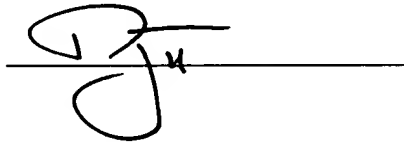
The undersigned declares further that all statements made herein are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

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punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 6/10/2003

A handwritten signature in black ink, appearing to be 'D. McNitt', is written over a horizontal line.

Douglas W. McNitt

Executive Vice President and General Counsel

WEBMETHODS, INC.

3930 Pender Drive, Fairfax, VA 22030

DEFR14A 1 defr14a.htm WEBMETHODS DEFINITIVE PROXY STATEMENT

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SCHEDULE 14A INFORMATION
Proxy Statement filed Pursuant to Section 14(a) of the
Securities Exchange Act of 1934 (Amendment No. 1)

Filed by the Registrant ☒Filed by a Party other than the Registrant ☐

Check the appropriate box:

☐ Preliminary Proxy Statement☒ Definitive Proxy Statement☐ Definitive Additional Materials☐ Soliciting Material Pursuant to §240.14a-11(c) or §240.14a-12

WEBMETHODS, INC.

(Name of Registrant as Specified In Its Charter)

WEBMETHODS, INC.
ACTIVE SOFTWARE, INC.

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

☒ No fee required.☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

(4) \$ per share (average of the high and low prices quoted on the Nasdaq National Market on).

(5) Proposed maximum aggregate value of transaction:

(6) Total fee paid:

☐ Fee paid previously with preliminary materials.

☐ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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webMethods.

July 14, 2000

Dear webMethods, Inc. Stockholders:

You are cordially invited to attend the annual meeting of stockholders of webMethods, Inc. which will be held on Tuesday, August 15, 2000 at 10:00 a.m., local time, at the Westfields Marriott, 14750 Conference Center Drive, Chantilly, Virginia 20151.

The matters expected to be acted upon at the meeting, including a proposed merger that will cause Active Software, Inc. to become a wholly owned subsidiary of webMethods, are described in the attached notice of annual meeting of stockholders and the Joint Proxy

Statement/ Prospectus.

We are proposing the merger because we believe that combining the products and technologies of the two companies will allow us to offer a complete software integration solution for companies, particularly Global 2000 companies, and industry trading exchanges, both within an enterprise and across business-to-business trading networks. In addition, we believe that a combined company would have a larger customer base, greater depth of skilled personnel, strengthened research and development activity, expanded distribution and support capability and a higher market profile, all of which would create greater market opportunities for us.

After careful consideration, the Board of Directors has approved the merger with Active Software and has determined that the issuance of shares of webMethods common stock in connection with the merger is in the best interests of webMethods and its stockholders. The Board has approved this issuance of shares of the common stock and recommends that you approve the issuance, as well as the other matters to be voted upon at the meeting.

Your vote is very important. Whether or not you plan to attend the meeting, please take the time to vote by completing and mailing the enclosed proxy card to us in the enclosed postage-paid envelope. If you sign, date and mail your proxy card without indicating how you want to vote, your proxy will be counted as a vote in favor of the proposals submitted at the meeting. Returning the proxy card does not deprive you of your right to attend the meeting and to vote your shares in person.

I look forward to seeing you at the annual meeting.

Sincerely,



Phillip Merrick
*Chairman of the Board, President
and Chief Executive Officer*

WEBMETHODS INC filed this 8-K on 08/23/2000.

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SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K
CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): August 15, 2000

webMethods, Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware	00-115681	54-1807654
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(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification Number)
 3930 Pender Drive Fairfax, Virginia		22030
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(Address of Principal Executive Offices)		(Zip Code)

Registrant's Telephone Number, including Area Code: (703) 460-2500

(Former Name or Former Address, if Changed Since Last Report)

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Item 2. Acquisition or Disposition of Assets

On August 15, 2000, webMethods, Inc., a Delaware corporation ("webMethods"), completed its acquisition of Active Software, Inc., a Delaware corporation ("Active Software"), through the merger of a wholly owned subsidiary of webMethods with and into Active Software, with Active Software surviving as a wholly owned subsidiary of webMethods (the "Merger"). The Merger is intended to be a tax-free reorganization for federal income tax purposes and to be accounted for as a pooling-of-interests transaction.

In connection with the Merger, webMethods issued approximately 13.9 million shares of webMethods common stock for all of the issued and outstanding shares of Active Software. webMethods also assumed Active Software's outstanding stock options. In the merger, each outstanding share of Active Software common

stock was exchanged for 0.527 of a share of webMethods common stock. Each outstanding Active Software stock option was adjusted to reflect this exchange ratio. In connection with the Merger, the size of the webMethods board of directors was increased by two members and R. James Green and James P. Gauer, directors of Active Software, were appointed to the board of directors. In addition, Mr. Green, the former chairman and chief executive officer of Active Software, has become the chief technology officer of webMethods.

A press release announcing the completion of the transaction is attached as an exhibit to this report and incorporated by reference herein.

Item 5. Other Events

On August 15, 2000, webMethods held its annual meeting of stockholders, at which stockholders approved the issuance of shares of webMethods common stock in connection with the Merger, an amendment to webMethods' Fifth Amended and Restated Certificate of Incorporation to increase the number of authorized shares of common stock to 500,000,000 shares and an amendment to webMethods' Stock Option Plan to increase the number of shares of common stock reserved for issuance under this plan to 20,731,000 shares and to make certain technical amendments to the plan. webMethods filed the Certificate of Amendment of the Fifth Amended and Restated Certificate of Incorporation and the Amended and Restated Stock Option Plan with the Securities and Exchange Commission (the "SEC") as Exhibits 4.2 and 4.3, respectively, to the webMethods Registration Statement on Form S-8 filed with the SEC on August 17, 2000. In addition, at the annual meeting webMethods stockholders elected Robert Cook, Robert Vasan and Chase Bailey as directors for three year terms and ratified the appointment of PricewaterhouseCoopers LLP as webMethods' independent accountants for the year ending March 31, 2001.

A press release announcing the results of the annual meeting of stockholders is attached as an exhibit to this report and is incorporated by reference herein.

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits

(a) Financial Statements of Business Acquired

webMethods intends to file by amendment the required financial statements reflecting the aquisition of all of the issued and outstanding capital stock of Active Software no later than 60 days after the date that this report on Form 8-K must be filed.

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(b) Pro Forma Financial Information

webMethods intends to file by amendment the required pro forma financial statements reflecting the acquisition of all of the issued and outstanding capital stock of Active Software no later than 60 days after the date that this report on Form 8-K must be filed.

(c) Exhibits

Exhibit Number

Exhibit

2.1

Agreement and Plan of Merger, dated as of May 20, 2000, by and among webMethods, Inc., Wolf Acquisition, Inc. and Active Software, Inc. (incorporated by reference to Exhibit 2.1 of the Registrant's Current Report on Form 8-K filed with the SEC on May 24, 2000)

99.1

Press Release Dated August 16, 2000

99.2

Press Release Dated August 15, 2000

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

webMethods, Inc.

By: /s/ Mary Dridi

Chief Financial Officer

Dated: August 23, 2000

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INDEX TO EXHIBITS

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